

REMARKS

Applicant respectfully requests entry and consideration of the above amendments even though presented after a final rejection. Applicant submits that the amendments do not raise new issues or require a new search. Further, entry and consideration of the amendments may isolate issues for potential allowance or appeal. The amendments were not presented earlier in the prosecution due to a better understanding of the Examiner's position as reflected in the latest Office Action.

Summary

Claims 1-20 stand in this application. Claims 1, 5, 10, 13, 17, and 18 have been amended. The applicant respectfully requests that the Examiner favorably reconsider and allow the standing claims.

35 U.S.C. § 103

At page 2, paragraph 2 claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number (USPN) 6,058,421 to Fijolek et al. ("Fijolek") in view of USPN 6,073,172 to Frailong et al. ("Frailong"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP §2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of

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ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). *See* MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. *See* MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in currently amended independent claims 1, 10, 13 and 18. Therefore currently amended independent claims 1, 10, 13 and 18 define over Fijolek in view of Frailong whether taken alone or in combination. For example, currently amended independent claim 1, in relevant part, states:

procuring, according to a second protocol unknown to the client, said network address and an assignment identifier by said agent for said client from a network address provider, said assignment identifier to indicate a status and time period said client may use said network address (emphasis added)

Currently amended independent claims 10, 13, and 18 recite a similar limitation. With respect to the rejection of dependent claims 5 and 17, a portion of which has been included in currently amended independent claims 1, 10, 13 and 18, the Examiner relies on Fijolek at column 9, lines 5-20 and column 26, lines 28-40 to teach an assignment

identifier indicating a status and time period said client may use said network address.

Applicant respectfully disagrees. Fijolek at column 9, lines 5-20, in relevant part, states:

CM 16 forwards IP 54 datagrams destined to an IP 54 unicast address across cable network 14 or PSTN 22. Some routers have security features intended to filter out invalid users who alter or masquerade packets as if sent from a valid user. Since routing policy is under the control of network operators, such filtering is a vendor specific implementation. For example, dedicated interfaces (i.e., Frame Relay) may exist between TRAC 24 and CMTS 12 which preclude filtering, or various forms of virtual tunneling and reverse virtual tunneling could be used to virtually source upstream packets from CM 16.

Applicant respectfully submits that this portion of Fijolek fails to teach or suggest the missing language of claim 1. The above recited language of Fijolek, arguably, teaches router security through filtering out invalid users and virtual tunneling to virtually source upstream packets. This language of Fijolek fails to teach or suggest an assignment identifier, "said assignment identifier to indicate a status and time period said client may use said network address" as recited by currently amended claim 1. Moreover, Fijolek at column 26, lines 28-40, in relevant part, states:

CM 16 receives the one or more DHCPOFFER messages and forwards them to CPE 18 at step 286. CM 16 uses the MAC 44 address specified determined by DHCP 66 chaddr-field 132 look-up in its routing tables to find the address of CPE 18 even if the BROADCAST bit in DHCP 66 flags-field 122 is set. At step 290, CPE 18 receives the one or more DHCPOFFER messages from CM 16. At step 292, CPE 18 selects one of the DHCPOFFER messages to allow a virtual connection to be established between data network 28 and CPE 18. Method 266 accomplishes addressing network interface hosts from CPE 18 in data-over-cable system 10 without extensions to the existing DHCP protocol.

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The above recited language of Fijolek, arguably, teaches the exchange of DHCPOFFER messages between the CM 16 and the CPE 18. Thereafter, the CPE selects a network host interface using one or more DHCPOFFER messages. Applicant again asserts that the above quoted portion of Fijolek fails to teach or suggest an assignment identifier, "said assignment identifier to indicate a status and time period said client may use said network address" as recited by currently amended claim 1.

For both of the above quoted portions of Fijolek (e.g., column 9, lines 5-10 and column 26, lines 28-40), Applicant respectfully submits that there is no mention of either an assignment identifier or the contents thereof. Furthermore, applicant respectfully submits that both of the above quoted portions of Fijolek fail to teach or suggest "said assignment identifier to indicate a status and time period said client may use said network." Applicant submits that Fijolek is void of any reference to an assignment identifier wherein the assignment identifier indicates a status and time period said client may use said network address. Accordingly, Applicant asserts that currently amended independent claims 1, 10, 13 and 18 are patentable as each recites at least an element not taught or suggested by Fijolek in view of Frailong taken alone or in combination.

Further, if an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending therefrom is also non-obvious. *See* MPEP §2143.03, for example. Accordingly, claims 2-9, 11, 12, 14-17, 19 and 20 are also non-obvious and patentable over Fijolek in view of Frailong, taken alone or in combination, at least on the basis of their dependency from claims 1, 10, 13 and 18. Applicant therefore respectfully requests that the Examiner remove of the obviousness rejection with respect to these dependent claims.

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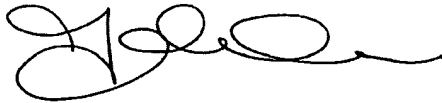
Applicant does not otherwise concede, however, the correctness of the Final Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

Applicant believes that claims 1-20 are in allowable form. Accordingly, Applicant earnestly solicits a timely Notice of Allowance to this effect.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC



John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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